

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**JOHN HASSAN RASTEGAR, M.D.**

**Physician's & Surgeon's  
Certificate No. A 53847**

**Respondent.**

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**File No: 17-2004-159459**

**OAH No: 2007080368**

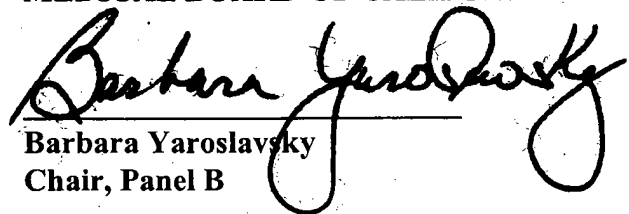
**DECISION AND ORDER**

**The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on February 25, 2008**

**IT IS SO ORDERED January 25, 2008**

**MEDICAL BOARD OF CALIFORNIA**

  
Barbara Yaroslavsky  
Chair, Panel B

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 PAUL C. AMENT  
Supervising Deputy Attorney General  
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6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **DIVISION OF MEDICAL QUALITY**  
10 **MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 JOHN HASSAN RASTEGAR, M.D. (AKA  
15 HASSAN RASTEGAR-FARD, M.D.)

16 1300 North Vermont Ave., #310  
17 Los Angeles, CA 90027

18 Physician & Surgeon's Certificate No. A53847

19 Respondent.

Case No. 17-2004-159459

OAH No. 2007080368

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

20 In the interest of a prompt and speedy settlement of this matter, consistent with the  
21 public interest and the responsibility of the Division of Medical Quality, Medical Board of  
22 California of the Department of Consumer Affairs, the parties hereby agree to the following  
23 Stipulated Settlement and Disciplinary Order which will be submitted to the Division for  
24 approval and adoption as the final disposition of the Accusation.

**PARTIES**

25 1. Barbara Johnston (Complainant) is the current Executive Director of the  
26 Medical Board of California. David T. Thornton, the Former Executive Director of the Medical  
27 Board of California, brought this action solely in his official capacity. Complainant is  
28 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
by Esther P. Kim, Deputy Attorney General.

1                   2.     Respondent John Hassan Rastegar, M.D. (Respondent) is represented in  
2 this proceeding by attorney Robert H. Gans, whose address is 11500 W. Olympic Blvd., Suite  
3 400, Los Angeles, CA 90064.

4                   3.     On or about January 4, 1995, the Medical Board of California issued  
5 Physician and Surgeon's Certificate No. A53847 to John Hassan Rastegar, M.D. The Certificate  
6 was in full force and effect at all times relevant to the charges brought in Accusation No. 17-  
7 2004-159459 and will expire on January 31, 2009, unless renewed.

8   **JURISDICTION**

9                   4.     Accusation No.17-2004-159459 was filed before the Division of Medical  
10 Quality, Medical Board of California, Department of Consumer Affairs (Division), and is  
11 currently pending against Respondent. The Accusation and all other statutorily required  
12 documents were properly served on Respondent on July 12, 2007. Respondent timely filed his  
13 Notice of Defense contesting the Accusation. A copy of Accusation No. 17-2004-159459 is  
14 attached as Exhibit A and incorporated herein by reference.

15   **ADVISEMENT AND WAIVERS**

16                   5.     Respondent has carefully read, fully discussed with counsel, and  
17 understands the charges and allegations in Accusation No. 17-2004-159459. Respondent has  
18 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
19 Settlement and Disciplinary Order.

20                   6.     Respondent is fully aware of his legal rights in this matter, including the  
21 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
22 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
23 the right to present evidence and to testify on his own behalf; the right to the issuance of  
24 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
25 reconsideration and court review of an adverse decision; and all other rights accorded by the  
26 California Administrative Procedure Act and other applicable laws.

27                   7.     Respondent voluntarily, knowingly, and intelligently waives and gives up  
28 each and every right set forth above.

**CULPABILITY**

8. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 17-2004-159459 and that he has thereby subjected his license to disciplinary action.

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 17-2004-159459 shall be deemed true, correct and fully admitted by respondent for purposes of that proceeding or any other licensing proceeding involving respondent in the State of California.

10. For the purpose of resolving this Accusation, and to avoid the uncertainty of further proceedings, Respondent agrees that his Physician and Surgeon's Certificate may be disciplined as set forth in the Disciplinary Order below.

**CONTINGENCY**

11. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties

1 agree that the Division may, without further notice or formal proceeding, issue and enter the  
2 following Disciplinary Order.

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. A53847  
5 issued to John Hassan Rastegar, M.D. (Respondent) is revoked. However, the revocation is  
6 stayed and Respondent is placed on probation for three (3) years on the following terms and  
7 conditions.

8 1. **CLINICAL TRAINING PROGRAM** Within 60 calendar days of the  
9 effective date of this Decision, Respondent shall enroll in a clinical training or educational  
10 program at the Physician Assessment and Clinical Education Program (PACE) offered at the  
11 University of California - San Diego School of Medicine ("Program").

12 The Program shall consist of a Comprehensive Assessment program comprised of  
13 a two-day assessment of respondent's physical and mental health; basic clinical and  
14 communication skills common to all clinicians; and medical knowledge, skill and judgment  
15 pertaining to Respondent's specialty or sub-specialty, and at minimum, a 40 hour program of  
16 clinical education in the area of practice in which respondent was alleged to be deficient and  
17 which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any  
18 other information that the Division or its designee deems relevant. Respondent shall pay all  
19 expenses associated with the clinical training program.

20 Based on Respondent's performance and test results in the assessment and clinical  
21 education, the Program will advise the Division or its designee of its recommendation(s) for the  
22 scope and length of any additional educational or clinical training, treatment for any medical  
23 condition, treatment for any psychological condition, or anything else affecting Respondent's  
24 practice of medicine. Respondent shall comply with Program recommendations.

25 At the completion of any additional educational or clinical training, Respondent  
26 shall submit to and pass an examination. The Program's determination whether or not  
27 Respondent passed the examination or successfully completed the Program shall be binding.

28 Respondent shall complete the Program not later than six months after

1 respondent's initial enrollment unless the Division or its designee agrees in writing to a later time  
2 for completion.

3 Failure to participate in and timely complete successfully all phases of the clinical  
4 training program outlined above is a violation of probation.

5 2. MONITORING - PRACTICE Within 30 calendar days of the effective  
6 date of this Decision, Respondent shall submit to the Division or its designee for prior approval  
7 as a practice monitor, the name and qualifications of one or more licensed physicians and  
8 surgeons whose licenses are valid and in good standing, and who are preferably American Board  
9 of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
10 personal relationship with Respondent, or other relationship that could reasonably be expected to  
11 compromise the ability of the monitor to render fair and unbiased reports to the Division,  
12 including, but not limited to, any form of bartering, shall be in Respondent's field of practice,  
13 and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

14 The Division or its designee shall provide the approved monitor with copies of the  
15 Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of  
16 the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed  
17 statement that the monitor has read the Decision and Accusation, fully understands the role of a  
18 monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
19 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
20 signed statement.

21 Within 60 calendar days of the effective date of this Decision, and continuing  
22 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
23 Respondent shall make all records available for immediate inspection and copying on the  
24 premises by the monitor at all times during business hours, and shall retain the records for the  
25 entire term of probation.

26 The monitor(s) shall submit a quarterly written report to the Division or its  
27 designee which includes an evaluation of Respondent's performance, indicating whether  
28 Respondent's practices are within the standards of practice of medicine or billing, or both, and

1 whether Respondent is practicing medicine safely, billing appropriately or both.

2 It shall be the sole responsibility of Respondent to ensure that the monitor submits  
3 the quarterly written reports to the Division or its designee within 10 calendar days after the end  
4 of the preceding quarter.

5 If the monitor resigns or is no longer available, Respondent shall, within 5  
6 calendar days of such resignation or unavailability, submit to the Division or its designee, for  
7 prior approval, the name and qualifications of a replacement monitor who will be assuming that  
8 responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement  
9 monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be  
10 suspended from the practice of medicine until a replacement monitor is approved and prepared to  
11 assume immediate monitoring responsibility. Respondent shall cease the practice of medicine  
12 within 3 calendar days after being so notified by the Division or designee.

13 In lieu of a monitor, Respondent may participate in a professional enhancement  
14 program equivalent to the one offered by the Physician Assessment and Clinical Education  
15 Program at the University of California, San Diego School of Medicine, that includes, at  
16 minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of  
17 professional growth and education. Respondent shall participate in the professional enhancement  
18 program at Respondent's expense during the term of probation.

19 Failure to maintain all records, or to make all appropriate records available for  
20 immediate inspection and copying on the premises, or to comply with this condition as outlined  
21 above is a violation of probation.

22 3. SOLO PRACTICE Respondent is prohibited from engaging in the solo  
23 practice of medicine. However, this requirement is waived with the practice monitor in place.

24 4. NOTIFICATION Prior to engaging in the practice of medicine, the  
25 Respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the  
26 Chief Executive Officer at every hospital where privileges or membership are extended to  
27 Respondent, at any other facility where respondent engages in the practice of medicine, including  
28 all physician and locum tenens registries or other similar agencies, and to the Chief Executive

1 Officer at every insurance carrier which extends malpractice insurance coverage to Respondent.  
2 Respondent shall submit proof of compliance to the Division or its designee within 15 calendar  
3 days.

4 This condition shall apply to any change(s) in hospitals, other facilities or  
5 insurance carrier.

6 5. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,  
7 Respondent may continue to supervise the two (2) physician assistants currently employed.  
8 Respondent may not hire or supervise any new physician assistants during the term of his  
9 probation.

10 6. OBEY ALL LAWS Respondent shall obey all federal, state and local  
11 laws, all rules governing the practice of medicine in California, and remain in full compliance  
12 with any court ordered criminal probation, payments and other orders.

13 7. QUARTERLY DECLARATIONS Respondent shall submit quarterly  
14 declarations under penalty of perjury on forms provided by the Division, stating whether there  
15 has been compliance with all the conditions of probation. Respondent shall submit quarterly  
16 declarations not later than 10 calendar days after the end of the preceding quarter.

17 8. PROBATION UNIT COMPLIANCE Respondent shall comply with the  
18 Division's probation unit. Respondent shall, at all times, keep the Division informed of  
19 Respondent's business and residence addresses. Changes of such addresses shall be immediately  
20 communicated in writing to the Division or its designee. Under no circumstances shall a post  
21 office box serve as an address of record, except as allowed by Business and Professions Code  
22 section 2021, subdivision (b).

23 Respondent shall not engage in the practice of medicine in Respondent's place of  
24 residence. Respondent shall maintain a current and renewed California physician and surgeon's  
25 certificate.

26 Respondent shall immediately inform the Division, or its designee, in writing, of  
27 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,  
28 more than 30 calendar days.



1                   9.     INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent  
2 shall be available in person for interviews either at Respondent's place of business or at the  
3 probation unit office, with the Division or its designee, upon request at various intervals, and  
4 either with or without prior notice throughout the term of probation.

5                   10.    RESIDING OR PRACTICING OUT-OF-STATE In the event  
6 Respondent should leave the State of California to reside or to practice, Respondent shall notify  
7 the Division or its designee in writing 30 calendar days prior to the dates of departure and return.  
8 Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is  
9 not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions  
10 Code.

11                   All time spent in an intensive training program outside the State of California  
12 which has been approved by the Division or its designee shall be considered as time spent in the  
13 practice of medicine within the State. A Board-ordered suspension of practice shall not be  
14 considered as a period of non-practice. Periods of temporary or permanent residence or practice  
15 outside California will not apply to the reduction of the probationary term. Periods of temporary  
16 or permanent residence or practice outside California will relieve respondent of the responsibility  
17 to comply with the probationary terms and conditions with the exception of this condition and  
18 the following terms and conditions of probation: Obey All Laws and Probation Unit  
19 Compliance.

20                   Respondent's license shall be automatically cancelled if Respondent's periods of  
21 temporary or permanent residence or practice outside California total two years. However,  
22 Respondent's license shall not be cancelled as long as Respondent is residing and practicing  
23 medicine in another state of the United States and is on active probation with the medical  
24 licensing authority of that state, in which case the two year period shall begin on the date  
25 probation is completed or terminated in that state.

26                   11.    FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT  
27 In the event Respondent resides in the State of California and for any reason Respondent stops  
28 practicing medicine in California, Respondent shall notify the Division or its designee in writing

1 within 30 calendar days prior to the dates of non-practice and return to practice. Any period of  
2 non-practice within California, as defined in this condition, will not apply to the reduction of the  
3 probationary term and does not relieve Respondent of the responsibility to comply with the terms  
4 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar  
5 days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of  
6 the Business and Professions Code.

7 All time spent in an intensive training program which has been approved by the  
8 Division or its designee shall be considered time spent in the practice of medicine. For purposes  
9 of this condition, non-practice due to a Board-ordered suspension or in compliance with any  
10 other condition of probation, shall not be considered a period of non-practice.

11 Respondent's license shall be automatically cancelled if Respondent resides in  
12 California and for a total of two years, fails to engage in California in any of the activities  
13 described in Business and Professions Code sections 2051 and 2052.

14 12. COMPLETION OF PROBATION Respondent shall comply with all  
15 financial obligations (e.g., probation costs) not later than 120 calendar days prior to the  
16 completion of probation. Upon successful completion of probation, respondent's certificate shall  
17 be fully restored.

18 13. VIOLATION OF PROBATION Failure to fully comply with any term or  
19 condition of probation is a violation of probation. If Respondent violates probation in any  
20 respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke  
21 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to  
22 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,  
23 the Division shall have continuing jurisdiction until the matter is final, and the period of  
24 probation shall be extended until the matter is final.

25 14. LICENSE SURRENDER Following the effective date of this Decision, if  
26 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
27 the terms and conditions of probation, Respondent may request the voluntary surrender of  
28 respondent's license. The Division reserves the right to evaluate Respondent's request and to

1 exercise its discretion whether or not to grant the request, or to take any other action deemed  
2 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
3 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the  
4 Division or its designee and Respondent shall no longer practice medicine. Respondent will no  
5 longer be subject to the terms and conditions of probation and the surrender of Respondent's  
6 license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the  
7 application shall be treated as a petition for reinstatement of a revoked certificate.

8 15. PROBATION MONITORING COSTS Respondent shall pay the costs  
9 associated with probation monitoring each and every year of probation, as designated by the  
10 Division, and which may be adjusted on an annual basis. Such costs shall be payable to the  
11 Medical Board of California and delivered to the Division or its designee no later than January  
12 31<sup>st</sup> of each calendar year. Failure to pay costs within 30 calendar days of the due date is a  
13 violation of probation.

14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
16 have fully discussed it with my attorney, Robert H. Gans. I understand the stipulation and the  
17 effect it will have on my Physician and Surgeon's Certificate. I enter into this Stipulated  
18 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
19 bound by the Decision and Order of the Division of Medical Quality, Medical Board of  
20 California.

21 DATED: 12/13/07

22 

23 JOHN HASSAN RASTEGAR, M.D.  
24 (AKA HASSAN RASTEGAR-FARD, M.D.)  
25 Respondent  
26  
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28

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26 ///

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28 ///

1 I have read and fully discussed with Respondent John Hassan Rastegar, M.D. the  
2 terms and conditions and other matters contained in the above Stipulated Settlement and  
3 Disciplinary Order. I approve its form and content.

4 DATED: 12/13/07

5   
6 ROBERT H. GANS  
7 Attorney for Respondent

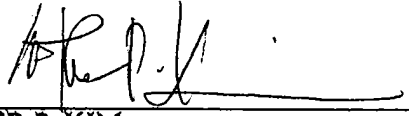
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Division of Medical Quality, Medical Board of California.

11 DATED: 12/14/07

12 EDMUND G. BROWN JR., Attorney General  
13 of the State of California

14 PAUL C. AMENT  
15 Supervising Deputy Attorney General

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17 ESTHER P. KIM  
18 Deputy Attorney General  
19 Attorneys for Complainant  
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1 EDMUND G. BROWN JR., Attorney General  
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2 PAUL C. AMENT  
Supervising Deputy Attorney General  
3 E. A. JONES III  
Deputy Attorney General  
4 ESTHER P. KIM, State Bar No. 225418  
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6 Los Angeles, CA 90013  
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8 Attorneys for Complainant

9  
10 **BEFORE THE**  
11 **DIVISION OF MEDICAL QUALITY**  
12 **MEDICAL BOARD OF CALIFORNIA**  
13 **DEPARTMENT OF CONSUMER AFFAIRS**  
14 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 17-2004-159459

15 **JOHN HASSAN RASTEGAR, M.D.**  
16 **(AKA HASSAN RASTEGAR-FARD, M.D.)**  
1300 North Vermont Ave., Suite 310  
Los Angeles, CA 90027

**A C C U S A T I O N**

18 Physician's and Surgeon's Certificate  
19 No. A53847

Respondent.

20  
21 Complainant alleges:

22 **PARTIES**

- 23 1. David T. Thornton (Complainant) brings this Accusation solely in his  
24 official capacity as the Executive Director of the Medical Board of California.
- 25 2. On or about January 4, 1995, the Medical Board of California issued  
26 Physician and Surgeon's Certificate Number A53847 to John Hassan Rastegar, M.D.  
27 (Respondent). The Physician and Surgeon's Certificate was in full force and effect at all times  
28 relevant to the charges brought herein and will expire on January 31, 2009, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Division of Medical Quality (Division), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the division.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.

"(4) Be publicly reprimanded by the division.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who

1 is charged with unprofessional conduct. In addition to other provisions of this  
2 article, unprofessional conduct includes, but is not limited to, the following:

3 "(a) Violating or attempting to violate, directly or indirectly, assisting in  
4 or abetting the violation of, or conspiring to violate any provision of this chapter  
5 [Chapter 5, the Medical Practice Act].

6 "(b) Gross negligence.

7 "(c) Repeated negligent acts. To be repeated, there must be two or more  
8 negligent acts or omissions. An initial negligent act or omission followed by a  
9 separate and distinct departure from the applicable standard of care shall constitute  
10 repeated negligent acts.

11 "(1) An initial negligent diagnosis followed by an act or omission  
12 medically appropriate for that negligent diagnosis of the patient shall constitute a  
13 single negligent act.

14 "(2) When the standard of care requires a change in the diagnosis, act, or  
15 omission that constitutes the negligent act described in paragraph (1), including,  
16 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
17 licensee's conduct departs from the applicable standard of care, each departure  
18 constitutes a separate and distinct breach of the standard of care.

19 "(d) Incompetence.

20 "(e) The commission of any act involving dishonesty or corruption  
21 which is substantially related to the qualifications, functions, or duties of a  
22 physician and surgeon.

23 "(f) Any action or conduct which would have warranted the denial of a  
24 certificate."

25 6. Section 2266 of the Code states:

26 "The failure of a physician and surgeon to maintain adequate and accurate records  
27 relating to the provision of services to their patients constitutes unprofessional  
28 conduct."

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 7. Respondent is subject to disciplinary action under section 2234,  
4 subdivision (c) of the Code in that he was repeatedly negligent in his care and treatment of  
5 his patients John J., Malcolm C., and Hoa D. The circumstances are as follows:

6 **Patient John J.**

7 8. On or about March 7, 2004, patient John J., who was seventy years  
8 old at the time, presented to Good Samaritan Hospital with respiratory distress and  
9 hypotension. Patient John J. had a history of multiple arrhythmias<sup>1</sup> (requiring permanent  
10 pacemaker), intracranial hemorrhage (requiring ventriculoperitoneal shunt), seizure  
11 disorder, hemiparesis,<sup>2</sup> multiple decubiti, hypothyroidism, and gastrostomy tube  
12 placement. In the emergency department, the patient was noted to be in respiratory  
13 distress and intubated. The emergency room physician noted laboratory values of sodium  
14 117, potassium 7.5, BUN 33, creatinine 0.8, white blood cell count 13, hemoglobin 12,  
15 and hematocrit 35. The impression included: 1) SOB,<sup>3</sup> 2) COPD<sup>4</sup> exacerbation, 3)  
16 MRSA<sup>5</sup> tracheobronchitis, 4) hyperkalemia,<sup>6</sup> and 5) hyponatremia.<sup>7</sup>

17 **Management of Hyperkalemia**

18 9. On or about March 7, 2004, during the admission of patient John J.,  
19 the emergency department physician noted that the patient was hyperkalemic with a  
20 potassium level of 7.5. The emergency department physician began treating the patient's

- 21 \_\_\_\_\_
- 22 1. Abnormal heartbeat rhythm.
- 23 2. Paralysis of half of the body.
- 24 3. Shortness of breath.
- 25 4. Chronic obstructive pulmonary disease.
- 26 5. Methicillin resistant staphylococcus aureus.
- 27 6. Elevated potassium.
- 28 7. Low sodium.



hyperkalemia by ordering bicarbonate, insulin, dextrose, and kayexolate before contacting the admitting physician.

10. On or about March 7, 2004, the patient was admitted to the intensive care unit at Good Samaritan Hospital under the care of Respondent. Despite the noted elevated potassium levels, Respondent ordered 20 meq<sup>8</sup> of potassium in the intravenous fluid. No cause for the elevated potassium levels were noted, no follow-up electrolyte levels were ordered, and no follow-up chemistry data to determine effectiveness of the therapy were noted. The supplemental potassium in the intravenous fluid was discontinued per another physician later that day.

#### Management of Anemia

11. On or about March 8, 2004, Respondent was paged at 8:55 a.m. and 9:30 a.m. due to a decrease in hemoglobin from 9 to 7.7. Respondent returned the page at 10:40 a.m. and without evaluating the patient, requested a cardiology and hematology consult for a possible blood transfusion. The hematology consultant evaluated the patient and ordered the blood transfusion at 2:15 p.m. The transfusion began at 4:05 p.m.

12. Respondent failed to address the patient's anemia by failing to initially evaluate the patient and order the blood transfusion. The relevant laboratory studies were not ordered, and no evaluation was done to check for internal bleeding. Instead, Respondent relied on the hematology and cardiology consultants to address the patient's anemia.

#### Management of Hypothyroidism

13. On or about March 7, 2004, through March 15, 2004, Respondent failed to address the patient's hypothyroidism. Although the patient had a known history of hypothyroidism, a TSH test was not ordered to determine whether the patient was receiving appropriate thyroid hormone replacement.

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8. Milliequivalent.

1 Use of Vancomycin

2 14. On or about January 8, 2004, during a previous admission at Good  
3 Samaritan Hospital, an infectious disease consultant noted a drug rash with eosinophilia<sup>9</sup>  
4 likely due to Vancomycin. On or about March 7, 2004, the paramedic records indicate that  
5 the patient was allergic to Vancomycin. However, Respondent's history and physical did  
6 not document any allergies for this patient and Vancomycin was prescribed on or about  
7 March 7, 2004.

8 15. On or about March 7, 2004, Vancomycin was discontinued per  
9 another physician due to a possible allergic reaction to Vancomycin.

10 16. On or about March 8, 2004, Respondent was contacted regarding  
11 the Vancomycin allergy. The nursing notes indicate that the Respondent became upset and  
12 stated he wanted to continue the Vancomycin. Respondent ordered the nurse to call the  
13 nursing home where the patient resided to verify the Vancomycin allergy.

14 17. On or about March 8, 2004, the nursing home was contacted and the  
15 allergy to Vancomycin was confirmed.

16 Departures from the Standard of Care

17 18. The following acts and omissions of Respondent in his care and  
18 treatment of patient John J., constituted departures from the standard of care:

19 A. Failing to manage the patient's hyperkalemia on or about  
20 March 7, 2004;

21 B. Failing to manage the patient's anemia on or about March 8,  
22 2004;

23 C. Failing to manage the patient's hypothyroidism on or about  
24 March 7, 2004, through March 15, 2004; and

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26  
27  
28 9. Increase in the number of eosinophils in the blood; it commonly occurs in allergic reactions and in some inflammatory conditions.

1 D. Inappropriate use of Vancomycin when the patient had a  
2 noted allergy to Vancomycin on or about March 7, 2004, through March 8, 2004.

3 E. Failing to document allergies in the patient's history and  
4 physical on or about March 7, 2004.

5 Patient Malcolm C.

6 19. On or about March 17, 2004, patient Malcolm C., who was seventy-  
7 three years old at the time, presented to Good Samaritan Hospital with hypotension, left  
8 flank pain, and diarrhea. The emergency room notes indicate that the patient was  
9 afebrile,<sup>10</sup> hypotensive with an elevated white blood cell count, suffered from pyuria,<sup>11</sup> and  
10 had renal insufficiency. In the emergency department, the patient was given intravenous  
11 fluids and a dose of Levaquin.<sup>12</sup> The patient was subsequently admitted that day to the  
12 intensive care unit under the care of Respondent.

13 Use of Anti-hypertensive Medication

14 20. On or about March 17, 2004, patient Malcolm C. was started on  
15 Dopamine to increase his blood pressure. However, despite the admitting diagnosis of  
16 hypotension, Respondent ordered 5mg of Altace taken daily, which exacerbates the low  
17 blood pressure.

18 21. On or about March 17, 2004, medical consultants discontinued the  
19 use of Altace and administered continued intravenous fluids and vasopressors.

20 22. The following act of Respondent in his care and treatment of patient  
21 Malcolm C., constituted departures from the standard of care:

22 A. Inappropriate use of anti-hypertensive medication on or  
23 about March 17, 2004.

24 ///

25 \_\_\_\_\_  
26 10. Having no fever.

27 11. Presence of leukocytes (white blood cells) in the urine.

28 12. Antibiotic.

Patient Hoa D.

23. On or about February 20, 2004, patient Hoa D., who was eighty-seven years old at the time, presented to Good Samaritan Hospital after falling at home and sustaining a left hip intertrochanteric fracture. The patient's blood pressure in the emergency department was 199/70. The patient's previous medications included Benazepril, Valsartan, Isordil, Digoxin, Lasix, Sprinolactone, and Clonidine. The patient was initially evaluated in the emergency department of Good Samaritan Hospital and was subsequently admitted to the intensive care unit under the care of Respondent. Respondent ordered Morphine for pain and intravenous fluids. Respondent did not order any further medications.

Management of Hypertension

24. On or about February 20, 2004, the nursing notes indicate that the patient's blood pressure was elevated to 191/53. Respondent was contacted and Clonidine was ordered.

25. On or about February 22, 2004, the nursing notes indicate that the patient's blood pressure was elevated to 180/90. Clonidine was again ordered.

26. On or about February 24, 2004, the nursing notes indicate that the patient's blood pressure was elevated to 166/56. Clonidine and Isordil were ordered.

27. On or about February 25, 2004, a cardiologist note in the patient file indicated that the blood pressure could be managed by the primary medical doctor.

28. On or about February 29, 2004, the patient's blood pressure was elevated to 203/104. Respondent ordered a cardiology consult.

29. On or about March 2, 2004, the patient's blood pressure was elevated to 190/79 and 195/67. Respondent ordered a cardiology consult and the cardiologist ordered Procardia XL.

30. On or about March 3, 2004, the patient's blood pressure was elevated to 214/63. Respondent ordered a cardiology follow-up for malignant hypertension.

1                   31.     On or about February 20, 2004, through March 3, 2004, Respondent  
2 failed to manage the patient's blood pressure. Respondent failed to increase blood  
3 pressure medications and instead relied on the cardiologist to make that determination,  
4 even after the cardiologist signed off on orders for Respondent to manage the patient's  
5 blood pressure.

6                   32.     The following omission of Respondent in his care and  
7 treatment of patient Hoa D., constituted a departure from the standard of care:

8                   A.     Failing to properly manage the patient's hypertension on or  
9 about February 20, 2004, through March 3, 2004.

10                               **SECOND CAUSE FOR DISCIPLINE**

11                                       **(Incompetence)**

12                   33.     Respondent is subject to discipline under section 2234, subdivision  
13 (d) of the Code in that he was incompetent. The circumstances are as follows:

14                   34.     The facts and circumstances alleged in paragraphs 8 through 31  
15 above are incorporated here as if fully set forth.

16                               **THIRD CAUSE FOR DISCIPLINE**

17                                       **(Inadequate Record Keeping)**

18                   35.     Respondent is subject to discipline under section 2266 of the code  
19 in that he failed to maintain adequate and accurate records relating to the provision of  
20 services to his patients. The circumstances are as follows:

21                   36.     The facts and circumstances alleged in paragraphs 14 through 17  
22 above are incorporated here as if fully set forth.

23                                       **PRAYER**

24                   WHEREFORE, Complainant requests that a hearing be held on the matters  
25 herein alleged, and that following the hearing, the Division of Medical Quality issue a  
26 decision:

27                   1.     Revoking or suspending Physician's and Surgeon's Certificate  
28                   Number A53847, issued to John Hassan Rastegar, M.D.;

2. Revoking, suspending or denying approval of John Hassan Rastegar, M.D.'s, authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering him to pay the Board, if placed on probation, the costs of probation monitoring;

4. Taking such other and further action as deemed necessary and proper.

DATED: July 12, 2007

DAVID T. THORNTON  
Executive Director  
Medical Board of California  
State of California  
Complainant

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